

ORDINANCE NO. 2004-12

**AN ORDINANCE ADOPTING THE LARGE RETAIL ESTABLISHMENT
AMENDMENT TO THE LAND DEVELOPMENT CODE - DRAFT PROPOSAL,
JUNE 2004**

WHEREAS, the Flagstaff Area Regional Land Use and Transportation Plan ("Regional Plan"), prepared under Section 9-461.05 of the Arizona Revised Statutes, adopted by the Flagstaff City Council in November 2001 and approved by the electorate in May 2002, under Section 9-461.06 of the Arizona Revised Statutes, establishes a policy framework that forms the City of Flagstaff's strategy for land use and commercial development; and

WHEREAS, the Regional Plan, in Policy C1.2, calls for the City to apply design and locational standards for large retail commercial developments; and,

WHEREAS, the Regional Plan, in Policy C1.3, encourages mixed-use development, avoiding large, single-use buildings and dominating parking areas; and

WHEREAS, the Regional Plan, in Policy C1.4, promotes commercial development that creates a "high quality urban environment that provides for walking, bicycling, and transit opportunities;" and

WHEREAS, the Regional Plan, under Policy C1.5, calls for the City to revise its development codes to support mixed-use neighborhood commercial centers, and to support redevelopment of aging neighborhood centers in order to achieve the mixed-use goals of the Regional Plan; and

WHEREAS, Section 9-462.01(F) of the Arizona Revised Statutes requires that any zoning ordinance adopted by the City be "consistent with and conform to the adopted general plan of the municipality;" and

WHEREAS, in order for a zoning ordinance to be consistent with the Regional Plan, the land uses authorized by the ordinance should be compatible with the community goals and development policies set forth in the Regional Plan; and

WHEREAS, the County has amended its zoning ordinances to address the Regional Plan provisions mentioned above; and

WHEREAS, the City has not yet amended its zoning ordinances to carry out the provisions of the Regional Plan mentioned above; and

WHEREAS, there is an emerging national trend toward increasing the size of retail outlets to large-scale discount stores and discount superstores; and

WHEREAS, large-scale discount superstores typically combine discount general merchandise and full-service grocery sales under one roof, and, while similar in size to other large-scale retailers and to wholesale membership clubs, such discount superstores tend to generate more intensive impacts; and

WHEREAS, the establishment of discount superstores in Flagstaff is likely to affect negatively the vitality and economic viability of the city's neighborhood commercial centers by drawing sales away from traditional supermarkets located in these centers; and

WHEREAS, industry and academic studies considered by the Council indicate that discount superstores rarely add any retail services currently not provided within a community, and that the majority of sales growth at a discount supercenter comes from a direct shift of dollars from existing retailers within a community, primarily from grocery stores; and

WHEREAS, discount superstores compete directly with existing grocery stores that anchor neighborhood-serving commercial centers; and

WHEREAS, discount superstores adversely affect the viability of small-scale, pedestrian-friendly neighborhood commercial areas, contributing to blight in these areas; and

WHEREAS, the proposed zoning code amendments are intended to preserve and promote neighborhood-serving commercial centers that provide convenient shopping and employment in close proximity to residential neighborhoods, consistent with the Regional Plan; and

WHEREAS, discount superstores have particularly high transportation impacts because of the frequency of grocery trips combined with the overall scale of the establishments; and

WHEREAS, large-scale retail stores of more than 125,000 square feet in gross floor area that sell a large volume and variety of non-taxable grocery and pharmacy items in a supermarket format significantly increase traffic volumes, strain the existing street network, promote traffic intrusion into adjacent neighborhoods, discourage pedestrian travel, and otherwise aggravate traffic congestion; and

WHEREAS, the proposed amendments do not prohibit membership clubs that typically sell in bulk to both businesses and individual households and generate lower transportation impacts, according to traffic engineering studies, than discount superstores; and

WHEREAS, numerous jurisdictions, including Coconino County in Arizona, taking all of the above considerations into account, have enacted ordinances that either completely prohibit new retail stores over a certain size or require special impact studies; and

WHEREAS, the proposed amendments can serve as a means for preserving neighborhood-serving commercial centers and carry out the policies of the Regional Plan with regard to commercial development; and

WHEREAS, the proposed regulations would not affect large retail establishments that do not include a sizable grocery component; and

WHEREAS, the proposed amendments are intended to prevent a significant change in land use and employment and traffic patterns throughout the city; and

WHEREAS, there are conflicts between the permitted uses in the Flagstaff Land Development Code and the Regional Plan, and such conflicts should be resolved to articulate more clearly the City's standards for large-scale retailers; and

WHEREAS, the proposed amendments will place stricter controls on the establishment of, or conversion to large-scale stores and would prevent a large-scale store with potential negative impacts from being established in Flagstaff; and

WHEREAS, the Regional Plan and the Coconino County zoning ordinances do not provide any proximate sites within the County that are appropriately zoned and have adequate infrastructure that would provide suitable alternative sites for discount superstores; and

WHEREAS, the Planning and Zoning Commission has reviewed the proposed Land Development Code amendments and has recommended that the Flagstaff City Council adopt the initially proposed amendments; and

WHEREAS, the City Council has reviewed the recommendations of the Planning and Zoning Commission and of staff, has made changes to the proposed amendments, and finds that these amendments to the Land Development Code are required to update and clarify certain provisions of the Land Development Code, to bring it into conformity with the Regional Plan, and to accomplish the purposes more particularly set out in this Ordinance; and

WHEREAS, the Council finds that in order for the City of Flagstaff to assess adequately the impact of a single retail use greater than 75,000 square feet of gross floor area on the Regional Plan, adjacent properties, surrounding neighborhoods, the proposed site and traffic, it is necessary to adopt the proposed amendments to the Land Development Code; and

WHEREAS the City Council Has determined that it is in the best interests of the health, safety and welfare of the citizens of the City that the [LARGE RETAIL ESTABLISHMENT AMENDMENT TO THE LAND DEVELOPMENT CODE - DRAFT PROPOSAL, JUNE 2004](#) be adopted; and

WHEREAS, the City Council finds that the adoption of this Ordinance may involve one or more of the types of changes referred to in Arizona Revised Statutes Section 9-462.04(A)(4) and that the City has taken the following steps to comply with the notice requirements of Arizona Revised Statutes Section 9-462.04:

1. The City has given notice of the time and place of the hearings to be held by the Planning and Zoning Commission and of the separate hearings to be held by the City Council, and the notices of those hearings included a general explanation of the matters to be considered, as well as notice that the adoption of the Code amendments may affect land within many zoning districts within the City; and
2. The City has given notice of the hearings and of the changes that the proposed amendments would accomplish by publication of the notice of the changes prior to the first hearing on the proposed changes in The Arizona Daily Sun, a newspaper of general circulation within the municipality, by publishing a display advertisement not less than one-eighth of one full page; and
3. That the Planning and Zoning Commission and the City Council have each notice and held separate public hearings to receive and consider the comments, criticisms and suggestions of the public, and the Council has made revisions to the proposed Code amendments to reflect certain of the suggested revisions; and

WHEREAS, the Council finds that it had, on July 6, 2004, by Resolution No. 2004-57, declared the LARGE RETAIL ESTABLISHMENT AMENDMENT TO THE LAND DEVELOPMENT CODE - DRAFT PROPOSAL, JUNE 2004 to be a public record, with three copies of that document to be held for public inspection in the Office of the City Clerk, and the Council finds that three copies of that document were filed and maintained as a public record by the City Clerk for more than thirty days following July 6, 2004; and

WHEREAS, Exhibit "A" to this Ordinance is a revision made to the Large Retail Establishment Amendment to the Land Development

Code-Draft Proposal, June 2004, that was declared to be a public record by Resolution No. 2004-57 on July 6, 2004;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FLAGSTAFF AS FOLLOWS:

SECTION 1. The LARGE RETAIL ESTABLISHMENT AMENDMENT TO THE LAND DEVELOPMENT CODE - DRAFT PROPOSAL, JUNE 2004 that was declared to be a public record by Council Resolution No. 2004-57 on July 6, 2004, is hereby adopted and declared to replace and supersede the existing relevant provisions of the Land Development Code.

SECTION 2. The Council intends that the prior provisions of the Land Development Code shall be of no force or effect unless the Superior Court of Coconino County, Arizona enters an order that stays the adoption, declares the adoption of the LARGE RETAIL ESTABLISHMENT AMENDMENT TO THE LAND DEVELOPMENT CODE - DRAFT PROPOSAL, JUNE 2004 to be ineffective or declares a referendum to have reversed the adoption of the LARGE RETAIL ESTABLISHMENT AMENDMENT TO THE LAND DEVELOPMENT CODE - DRAFT PROPOSAL, JUNE 2004, in which case the Council intends that the prior provisions of Land Development Code shall remain in effect until the Council shall adopt other provisions that are declared to supersede the prior provisions.

PASSED AND ADOPTED by the Council of the City of Flagstaff and approved by the Mayor of the City of Flagstaff, this 21st day of September, 2004.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

Exhibit A

Section 10-03-003-0002, STANDARDS FOR SELECTED CONDITIONAL USES,
Part G., LARGE RETAIL ESTABLISHMENTS:

9. Community Impact Analysis. Every proposed new Large Retail Establishment shall provide, as part of the Conditional Use Permit application, an independent community impact analysis paid for by the developer and performed by a consultant selected by the City Council. The community impact analysis shall address, at a minimum, the projected costs and benefits to the community resulting from the project including:
 - a. Projected costs arising from increased demand for and required improvements to public services and infrastructure;
 - b. Value of improvements to public services and infrastructure to be provided by the project;
 - c. Projected tax revenues to be generated by the project;
 - d. Projected impact of the project on surrounding land values and any potential loss or increase in tax revenues to the City;
 - e. Short-term and long-term projection of increased City revenues and costs resulting from the proposed project;
 - f. Market and financial feasibility of the project, including any market studies prepared for the project and any plans for phased construction.